



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Fares F. Yasin, M.D.; Decision and Order

On June 30, 2021, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Fares F. Yasin, M.D. (hereinafter, Applicant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2, at 1, 4; RFAAX 4, at 1. The OSC proposed the denial of Applicant's application for a DEA Certificate of Registration, Control No. W19137777C, with the proposed registered address of 11 Calle Central, Coto Laurel, Puerto Rico 00780. RFAAX 2, at 1. The OSC alleged that Applicant's application should be denied because Applicant materially falsified his application and because Applicant's registration would be inconsistent with the public interest. *Id.* (citing 21 U.S.C. 824(a)(1), 823(g)(1)¹).

By letter dated August 31, 2021, Applicant requested that DEA "[f]ormally withdraw [his] DEA registration application and cancel the hearing." RFAAX 3.² On May 25, 2023, the Government submitted its RFAA, alleging that Applicant's Puerto Rico controlled substance license had been suspended and proposing the denial of Applicant's application on the grounds that Applicant lacks authority to handle controlled substances in Puerto Rico, the territory in which he seeks registration with DEA. RFAA, at 1, 3.³ The Government had not alleged that Applicant lacked authority in the OSC. *See* RFAAX 2. Nonetheless, the Government is not

¹ Effective December 2, 2022, the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. No. 117-215, 136 Stat. 2257 (2022) (Marijuana Research Amendments or MRA), amended the Controlled Substances Act (CSA) and other statutes. Relevant to this matter, the MRA redesignated 21 U.S.C. 823(f), cited in the OSC, as 21 U.S.C. 823(g)(1). This Decision cites to the current designation, 21 U.S.C. 823(g)(1), and to the MRA-amended CSA throughout.

² Based on the Declaration of a DEA Special Agent, the Agency finds that the Government's service of the OSC on Applicant was adequate and that Applicant was served with the OSC on July 8, 2021. RFAAX 4, at 1; *see also* RFAAX 4, Appendix A. According to Applicant, he responded to the OSC by email on August 8, 2021, and communicated several times thereafter with DEA regarding his desire to withdraw his application prior to submitting the August 31, 2021 letter. RFAAX 3.

³ In its RFAA, the Government appears to have dropped the allegations regarding material falsification and public interest. RFAA, at 2-3.

required to issue an amended OSC to notice an allegation of a registrant's lack of state (or in this case territory) authority that arises during the pendency of a proceeding regarding a DEA registration. *Hatem M. Ataya, M.D.*, 81 FR 8221, 8244 (2016). Previous Agency decisions have stated that because the possession of state authority is a prerequisite for obtaining and maintaining a registration, the issue of state authority can be raised at any stage of a proceeding. *See Ataya*, 81 FR at 8244; *Joe M. Morgan, D.O.*, 78 FR 61961, 61973-74 (2013).⁴

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA.

FINDINGS OF FACT

On August 10, 2022, the Puerto Rico Department of Health suspended Applicant's Puerto Rico controlled substance license. RFAAX 5, Appendix A, at 1. As of August 15, 2022, Applicant's Puerto Rico controlled substance license remained suspended. *Id.*⁵ Accordingly, the Agency finds that Applicant is not licensed to handle controlled substances in Puerto Rico, the territory in which he seeks registration with DEA.

DISCUSSION

⁴ Even so, in such cases, a registrant must be provided with a meaningful opportunity to contest the allegation. *See, e.g., Lawrence E. Stewart, M.D.*, 86 FR 15257, 15257 (2021); *Cypress Creek Pharmacy LLC*, 86 FR 71927, 71927 (2021); *Lesly Pompy, M.D.*, 84 FR 57749, 57749-50 (2019); *Ataya*, 81 FR at 8245; *Morgan*, 78 FR at 61973-74. On July 27, 2023, the Government submitted a Notice of Notification of RFAA in which the Government asserted that it had notified Applicant of the lack of authority allegation and had provided Applicant with a copy of the RFAA via email. Notice of Notification of RFAA, at 1; *see also* Notice of Notification of RFAA, Exhibit 1. The Government's evidence included an email to Applicant with instructions for submitting a response, if desired, to the lack of authority allegation. *Id.* Accordingly, the Agency finds that Applicant was notified of the RFAA and was provided with a meaningful opportunity to contest the lack of authority allegation. Further, more than two months have passed since the Government notified Applicant and Applicant has not availed himself of the opportunity to respond.

⁵ The Agency has no indication that the status of Applicant's controlled substance license (which is not publicly available information) has changed. Following the submission of the Government's RFAA and its notification to Applicant that it had submitted the RFAA, the Agency to date has not received any correspondence from Applicant regarding any changes to the status of his controlled substance license. Accordingly, the Agency finds that Applicant's Puerto Rico controlled substance license remains suspended as of the date of signature of this Order. *See Heather M. Entekin, DVM*, 88 FR 17266, 17266 (2023). Applicant may dispute the Agency's finding by filing a motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order with supporting documentation (showing that Applicant was able to dispense controlled substances on or before the date of this Order). Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration, at dea.addo.attorneys@dea.gov.

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.”

With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁶

According to the Puerto Rico Controlled Substances Act, “[a]ny person who manufactures, distributes and dispenses controlled substances in the Commonwealth of Puerto Rico . . . shall obtain a registration certification annually, issued by the Secretary of Health, pursuant to the rules and regulations approved and promulgated by said government official.” P.R. Laws Ann. tit. 24, section 2302(a) (West, current through all acts translated by the Translation Office of the Puerto Rico Government through the 2011 Legislative Session and various acts from 2012 to the present). Further, “dispense” means “the prescribing, administering or delivering of a controlled substance to an ultimate user, by prescription or order for administering it. It includes the process of the compounding, labeling and packaging of a

⁶ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. No. 117-215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR at 71371-72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR at 27,617.

controlled substance for such delivery. The term ‘dispenser’ means the practitioner who so delivers a controlled substance.” *Id.* at section 2102(11).

Here, the undisputed evidence in the record is that Applicant lacks authority to dispense controlled substances in Puerto Rico. As discussed above, a physician must hold a controlled substances license to dispense a controlled substance in Puerto Rico. Thus, because Applicant lacks authority to handle controlled substances in Puerto Rico, Applicant is not eligible to receive a DEA registration. Accordingly, the Agency will order that Applicant’s application for a DEA registration be denied.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the pending application for a Certificate of Registration, Control Number W19137777C, submitted by Fares F. Yasin, M.D., as well as any other pending application of Fares F. Yasin, M.D., for additional registration in Puerto Rico. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on October 20, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Heather Achbach,

Federal Register Liaison Officer,

Drug Enforcement Administration.

